



#9/5/2002
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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application

Pascal Sebastian Bailon

Group:1647

Serial No. 09/604,938, filed June 27, 2000

Examiner: R. DeBerry

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For: **ERYTHROPOIETIN CONJUGATES**

Election in Response to Restriction Requirement under 35 U.S.C. 121

Nutley, New Jersey 07110
November 1, 2001

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

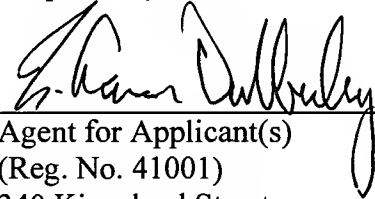
In response to the Restriction Requirement mailed October 2, 2001, in the above-identified application, Applicants elect Restriction Group I, drawn to "erythropoietin conjugates or compositions". ALL the pending claims (1-60) include subject matter in the elected group of "erythropoietin conjugates or compositions". Applicants respectfully note that even claims such as 16-22, which are specific to non-elected Restriction Group II of "erythropoietin fusion protein[s]", are still drawn to "erythropoietin conjugates or compositions" because those fusion proteins are forms of erythropoietin AND are conjugated to the n poly(ethylene glycol) groups required by independent claim 1. All of the instant claims require a conjugate of a form of human erythropoietin and a specific n poly(ethylene glycol).

Regarding the further requirement to elect one particular erythropoietin modification, Applicants elect unmodified human erythropoietin with traverse. Applicants respectfully assert that any complete search performed by the Examiner for

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conjugates of n poly(ethylene glycol) and human erythropoietin would, of necessity, turn up prior art conjugates of n poly(ethylene glycol) and human erythropoietin modified to add one or more glycosylation sites, such as those claimed here. This is particularly true, since the instant specification teaches that erythropoietin analogs with additional glycosylation sites are disclosed in European Patent Application 640 619, published March 1, 1995 (page 8, lines 6-7). Accordingly, there is no need for restricting the instant invention to conjugates containing one particular erythropoietin modification.

Respectfully submitted,



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